



Peru

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Peru is a multiparty republic that recently emerged from a decade of authoritarian government and is undergoing a process of democratic transformation. In November 2000, President Valentin Paniagua took power and led a transition government after then-President Alberto Fujimori resigned and was dismissed from office. Under President Paniagua, the Government held elections in April and June, which observers considered to be generally free and fair. Alejandro Toledo of the Peru Posible party won the presidential runoff election with approximately 53 percent of the vote and was inaugurated in July. The Constitution provides for an independent judiciary; however, in practice the judiciary has been subject to interference from the executive and is corrupt and inefficient. The Government took steps to implement important judicial reform during the year.

The police and military share responsibility for internal security. In November 2000, Congress dismantled the National Intelligence Service (SIN) and in June passed legislation to create a new intelligence system under civilian control, with congressional oversight. Members of the security forces committed some serious human rights abuses.

The country's population is approximately 27 million. Over the last decade, the Government transformed a heavily regulated economy into a market-oriented one. Gross domestic product (GDP) showed no growth during the year, compared with 3.1 percent growth in 2000. Inflation, which was 3.7 percent in 2000, fell to less than 1 percent for the year. Per capita GDP is estimated at \$2,085. Major exports include copper, gold and other minerals, fishmeal, textiles, and agricultural products. More than half of the economically active population works in the informal sector. The urban unemployment rate is officially 9.5 percent of the workforce, with underemployment of over 40 percent. The poor constitute approximately 54 percent of the population, earning less than \$1.25 per day; about 15 percent of the population lives in extreme poverty, unable to meet the most basic food, shelter, and clothing requirements.

The Government made significant institutional improvements during the year; however, the human rights record remained poor in several areas and longstanding problems remain. Police and prison security forces committed seven extrajudicial killings. The security forces tortured, beat, and otherwise abused detainees. Abuse of military recruits continued. Impunity remained a problem, and security forces sometimes harassed victims or other witnesses to keep them from filing charges. Overall prison conditions remained poor and were extremely harsh in maximum-security facilities. There continued to be reports of arbitrary arrest and detention. Pretrial detention continued to be prolonged, and trials are frequently subject to inordinate delays. Despite extensive changes to reduce executive dominance over the judiciary, problems persisted, including the general inefficiency of the system. The authorities violated privacy rights. The general climate for press freedom improved during the year, although there were some problems. Violence and discrimination against women continued. Violence against children and discrimination against persons with disabilities, indigenous people, and racial and ethnic minorities remained problems. Labor advocates argue that labor laws and practices restrict freedom of association and collective bargaining rights. Child labor remained a serious problem in the informal sector.

Both the Paniagua and Toledo administrations took steps to implement important democratic reforms to improve the exercise of civil and political rights and to address allegations of corruption in the judiciary, the executive, and the intelligence service. The Paniagua administration created a National Initiative Against Corruption, a Truth Commission, and a Commission on Constitutional Reform. In June former de facto SIN Chief Vladimiro Montesinos was captured in Venezuela and the Peruvian National Police (PNP) brought him back to the country to face a range of charges, including murder, corruption, money laundering, and drug trafficking. President Toledo continued these efforts, appointed an anticorruption czar, and initiated other

reforms to restructure the police and judiciary. In February Congress voted to return the country to the jurisdiction of the Inter-American Court of Human Rights. Adhering to Court rulings, the Government moved to prosecute perpetrators of human rights abuses from previous years. In an effort to address impunity, the Government, Congress, and the judiciary undertook dozens of investigations during the year into political abuses and corruption of the Fujimori period (1990-2000). However, some of these investigations appeared to have politically partisan overtones. On August 27, Congress voted unanimously to remove former President Fujimori's immunity from prosecution as a former head of state, and in September he was indicted on charges of murder, causing grave injuries, and responsibility for forced disappearances. In November the Truth and Reconciliation Commission began to investigate past human rights abuses.

Sendero Luminoso terrorists were responsible for killings, torture, and numerous other abuses.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of politically motivated killings. The police committed three killings and prison security forces committed four killings. Two military recruits died under suspicious circumstances.

The Human Rights Commission (COMISEDH) and Amnesty International report that abuse of individuals in police custody and inmates in prison by security forces continues to be a problem (see Section 1.c.). When police officers were the perpetrators, the abuse usually took place at the police station just after the arrest, while the detainee was held incommunicado (see Section 1.d.). When detainees die as a result of abuse or torture, COMISEDH reports that the security forces sometimes describe the incident as a suicide. In these cases, nongovernmental organizations (NGO's) such as COMISEDH file a complaint of torture and present evidence they may have to a prosecutor, who then proceeds with an investigation. Impunity is a problem, and the authorities who commit such abuses seldom are held responsible.

In February National Prison Institute (INPE) prison officers recaptured and subsequently killed two inmates, Juan Carlos Campos Valentin and Graciano Rufino Martinez, who had escaped from the Challapalca jail. The authorities pursued the inmates, found them in a ravine and shot them in the feet, placed the men in a vehicle, and took them back to Challapalca. Later, the two men died as a result of their injuries in Capaso, as they were being taken to a hospital in Puno. At year's end, an investigation was under way in Puno.

Also in February, an inmate of the Lurigancho prison, Felipe Davila Gamarra, died from injuries he received during a severe beating. Before dying in the hospital, Gamarra told relatives that the police officers in the prison had beaten him. He had been serving a 7-year sentence for stealing a tricycle and was about to be pardoned for good behavior.

On May 5, police arrested Jenard Lee Rivera San Roque, a former member of the army, on suspicion of theft and took him to the police station in Cruz Blanca. The next morning nine policemen, eight of them dressed in civilian clothing, allegedly took Rivera to his home in San Bartolome. They entered his home without a search warrant (see Section 1.f.). Witnesses claim that the police officers kept Rivera in his home the entire day while they tortured and beat him repeatedly with a chain. His relatives were not allowed to enter the house. In the evening, the policemen took him back to the police station, where they allegedly continued to torture and beat him. On May 9, he was found dead in his cell. The police claimed that he hanged himself. His face and body showed evidence of torture. According to Amnesty International, police agents harassed Rivera's family. The police also have harassed the family's attorney and other persons for protesting Rivera's death. Amnesty International has stated that the police are attempting to prevent Rivera's family and neighbors from bringing to justice the officers responsible for his torture and death. The organization filed a complaint regarding both the torture of Rivera and harassment of his family, and an investigation was pending at year's end.

According to COMISEDH, on June 28, police officers beat Nazario Victor Valencia Porras after they took him to the Matucana police station as a robbery suspect. On July 1, the police told his sister that he had committed suicide. COMISEDH reported that there were irregularities in Valencia's arrest report, and that he may have died as a result of injuries he received while in police custody (see Section 1.c.). At year's end, a prosecutor was investigating the case.

According to COMISEDH, on August 5, INPE prison officers in Pocollay, Tacna, beat Guillermo Navarro Rospigliosi to punish him for drinking alcohol in his cell. After observing his injuries, a prosecutor ordered prison officials to send him to a hospital for treatment. Upon his return on August 6, prison officials put Navarro

into solitary confinement. According to other inmates, INPE officers again severely beat him and tortured him with electric shocks. The torture led to Navarro's death. INPE reported that Navarro committed suicide by hanging himself (see Section 1.c.). At year's end, Rospigliosi's body had been exhumed and a prosecutor was investigating the case.

On August 27, police officers from the Villa Maria Sur patrol unit detained Cesar Augusto Ayaucan Arguedas. Police accused him of robbing a taxi driver and claimed that he was drunk at the time of arrest. One police officer and the taxi driver severely beat Ayaucan. They allowed him to go home after the beating. At home, Ayaucan complained of abdominal pain and was taken to a hospital where he was declared dead on arrival. At year's end, an investigation was pending.

In November 2000, police stopped taxi driver Carlos Lopez Flores in Ayacucho and accused him of involvement in narcotics trafficking. Eyewitnesses reported that they saw three uniformed policemen beat and shoot Lopez, who died 3 days later. In December 2000, the Public Ministry's office was investigating the case after a complaint was filed against the three police officers for torture and murder. Amnesty International reported that unknown persons have harassed the victim's mother in an apparent attempt to deter her from trying to bring to justice the police agents who allegedly killed her son.

In the case of the killing in 2000 of Alejandro Damian Trujillo Llontop, the judge determined that errors were made in the deposition process during which witnesses gave their testimony, and he released the 10 police officers accused of Trujillo Llontop's murder. In August the prosecutor's office in Lima accused the 10 policemen of a crime against humanity--forced disappearance--in the Trujillo Llontop case. At year's end, the case was pending further action at the superior prosecutor's office in Lima.

There were no new developments in the 1999 killings of Tito Mariluz Dolores, Ronny Machaca Flores, and Mario Clemente Guillen Mendez, who died after police detained them. There were no developments in the 1999 death of Esteban Minan Castro.

Military service is no longer mandatory, but mistreatment of military recruits, including cases which resulted in death, continued to be a problem (see Section 1.c.). According to press reports, two military recruits, Percy Cusiqualpa Franco and Isaias Yanac Rodriguez, died under suspicious circumstances, but no further details were available.

On September 27, 2000, the body of Juan Carlos Aliaga Mera, a noncommissioned air force officer, who was a crewmember in President Fujimori's presidential plane, was found in the Callao Air Group 8 Complex. His body had a bullet wound in the head and, according to the family, signs of brutal torture around the neck, ankles, and face. According to COMISEDH, air force doctors performed an autopsy without the required presence of the Provincial Prosecutor, and without the authorization of the doctors from the police criminal division, who were in charge of the investigation. The autopsy only mentioned the bullet wound to the head. The air force claims that Aliaga committed suicide. On March 7, COMISEDH filed a criminal complaint against two noncommissioned officers, Angel Rodriguez and Colonel William Barrera Herrera, for the crime of torture. At year's end, the case was under investigation and expected to be handled by the 6th Criminal Court of Callao.

In May 2000, police in Tacna arrested Nelson Diaz Marcos on charges of public intoxication and allegedly tortured him before killing him. COMISEDH reported that in June 2000 the prosecutor charged policemen Victor Pachas Mamani and Carlos Laqui Marquina of torture. The policemen sought to be tried in a military court, but in August, the Superior Criminal Court determined that the case should be heard in the civil court system. At year's end, their trial was still pending.

In 2000 Jose Luis Payano joined the air force and complained to his parents that air force officers physically had abused him. In November 2000, Payano's body was found on his base; the military said that he had committed suicide, but his family said that he had been shot and killed. COMISEDH reported that Payano's body was exhumed, and an autopsy determined that Payano was killed by a gunshot from a small caliber firearm, not a rifle as claimed by the air force pathologist who performed the original autopsy. At year's end, an investigation continued.

In June the prosecutor's office began a preliminary investigation of an air force lieutenant and two noncommissioned officers for homicide in the August 2000 death of military recruit Ronald Enrique Pena Garcia of a bullet wound. At year's end, the investigation continued.

In the case of Marino Fernandez Sanchez, who died in December 2000 in a hospital after allegedly having been tortured by military officials, the Huancayo prosecutor's office and the Ombudsman's office carried out a preliminary investigation. At year's end, the investigation was continuing.

In the case of army recruit Lenin Castro Mendoza, who died in September 2000 after an officer beat and kicked him for being intoxicated, the prosecutor's office carried out a preliminary investigation, but the family decided not to file any charges.

In the case of Carlos Orellano Mallqui, who died in police custody in 1998 in Ancash, a military court acquitted the defendants.

In the case of Pablo Espinoza Lome, a jailed inmate killed by prison guards in 1999, COMISEDH reported that the Supreme Court upheld the guilty verdict against prison guard Marcial Eliseo Perez. A lower court had found Perez guilty as an accomplice in the crime of torture followed by death; Perez originally had been acquitted of violating the 1998 antitorture law (see Section 1.c.). The Supreme Court increased Perez's jail sentence from 4 years to 6 years and increased the indemnity he was ordered to pay to approximately \$5,700 (20,000 soles).

Following the recommendation of the Inter-American Human Rights Commission (IACHR), on December 21, the Government awarded \$157,000 to the parents of Mariella Barreto as compensation for their daughter's death. The Government also awarded a pension to Barreto's two children. Barreto's family accepted the Government's offer. The Government announced that it plans to investigate the crime and punish those responsible. Barreto, an army intelligence (SIE) agent, was kidnaped, tortured, and killed in 1996. Her dismembered and decapitated body was found in 1997.

On August 27, Congress voted unanimously to remove former President Fujimori's immunity from prosecution as a former head of state. In September Fujimori was indicted on charges of murder, causing grave injuries, and responsibility for persons who disappeared in relation to La Cantuta and Barrios Altos. Fujimori, along with former SIN de facto head Montesinos, was accused of being responsible for the extrajudicial killing of 19 persons in the Barrios Altos section in Lima in 1991 and the disappearance of 9 students and a professor at La Cantuta university in 1992 (see Section 1.b.). Both events have been attributed to the La Colina death squad allegedly formed by members of army intelligence.

On November 8, the Ombudsman turned over to the Truth and Reconciliation Commission evidence of human remains in 51 mass graves (see Section 4). More than half of the graves are located in Ayacucho.

In June 2000, the press reported that peasants had discovered a mass grave, no older than 10 years, containing the remains of between 8 and 12 bodies in the area of Colcabambla, Huancavelica. According to NGO's, the gravesite is located along a trail used frequently by army patrols and terrorist columns in the 1980's and early 1990's. In 2000 representatives from the Human Rights Ombudsman's office observed that irregularities in handling of evidence had compromised the forensic integrity of the investigation.

Unlike the previous year, there were no reports that peasants or others died during armed confrontation with owners of land they occupied.

Sendero Luminoso terrorists killed 31 persons during the year in the course of 130 acts of violence.

b. Disappearance

There were no reports of politically motivated disappearances.

In the case of Walter Munarriz Escobar, who disappeared in 1999 after being taken into police custody in Huancavelica, a court found two of the six PNP officers guilty of committing a crime against humanity--forced disappearance--and sentenced them to 18 years in jail and fined them approximately \$5,700 (20,000 soles). The court acquitted the other four officers charged in the case; COMISEDH filed an appeal to annul the acquittals.

The Government paid Ernesto Rafael Castillo Paez's family \$245,000 in indemnity in accordance with the Inter-American Human Rights Court's order. According to the Legal Defense Institute (IDL), the 15 policemen accused of aggravated kidnaping in this case only have been ordered to appear in court when summoned. The IDL filed an appeal to this order, asking that the policemen be kept in custody while awaiting trial.

According to a 2000 report from the Ombudsman's office, the number of persons who disappeared in the war against terrorism since 1980 may exceed 4,000. The Ombudsman's office noted that the Sendero Luminoso or Tupac Amaru (MRTA) rebels abducted the majority of victims, mainly indigenous peasants.

In September the Ministry of Justice obtained clarification from the Inter-American Court of Human Rights regarding its ruling that the two 1995 amnesty laws exempting military officials from prosecution in the 1991 Barrios Altos massacre were invalid. Based on the clarification, the Government stated that it plans to bring members of the security forces to justice in other human rights abuse cases. Also in September, former President Fujimori and former intelligence adviser Montesinos were indicted on charges involving responsibility for the Barrios Altos massacre, the La Cantuta disappearances, and other human rights abuses (see Section 1.a.). Few members of the security forces have been held accountable for their role in disappearances, and impunity remains a problem.

In June President Paniagua established a Truth Commission to consider human rights violations, including disappearances, committed by government security forces and armed insurgency groups over the past 20 years (see Section 4).

On January 8, the Government signed the Inter-American Convention Against Forced Disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution and the law prohibit torture and inhuman or humiliating treatment; however, in practice torture and brutal treatment by the security forces continued to occur. COMISEDH and Amnesty International report that abuse of individuals in police custody and inmates in prison by security forces continues to be a problem. In 2000 the Human Rights Ombudsman and NGO's had described such abuse as widespread.

Torture most often takes place immediately following arrest. Torture is common during police detention when families are prohibited from visiting suspects while they are held incommunicado, and attorneys have only limited access to them (see Section 1.d.). In a number of cases during the year, suspects died following torture and beatings by security officials; NGO's used charges of torture to bring cases in previous killings (see Section 1.a.).

In some cases, the police and security forces threaten or harass victims, their relatives, and witnesses in an attempt to keep them from filing charges of human rights violations. According to Amnesty International, several victims have been too scared to follow through with judicial proceedings against their abusers, who subsequently were released without being charged.

In past years, such abuse was particularly common in police cells operated by the National Counterterrorism Directorate (DIRCOTE) and in detention facilities on military bases, where terrorism and treason suspects normally were held. Psychological torture and abuse, which result from the harsh conditions in which detainees are held, are more characteristic of the prisons.

COMISEDH reported 36 cases of aggravated torture by security forces, compared with 35 in 2000. The majority of cases involved incidents of police brutality and beatings during detention.

For example, on May 30, 15 policemen severely beat Teobaldo Pozo Tupayachi, an inmate at the Quencoro prison. In protest, Pozo went on a hunger strike and police officers subsequently harassed him and threatened him with death if he did not withdraw the charges against them. Other inmates attacked him, and his attorney claims that the prison director ordered the inmates to do so. Prison authorities denied Pozo's attorney and social worker, both from the Association for Life and Human Dignity in Cusco, access to the prison.

In December 2000, Amnesty International released a report on 21 cases of alleged torture in the previous 2 years. Supported by a large number of NGO's, the organization called on the Government to stop impunity in cases of torture; to try all such cases in civilian, rather than military, courts; and to apply the law against torture to all security force members implicated in cases of torture. The authorities have brought charges against 20 persons under this law. However, after initial investigations in four cases, prosecutors decided either not to charge the alleged perpetrators or to drop all pending charges. In several other cases, prosecutors filed charges on lesser offenses and sought milder sentences than required under the antitorture law. At year's end, Amnesty International reported that since passage of the 1998 legislation, only two perpetrators had been sentenced under that law.

The court did not charge the police officers accused in the 1999 torture case of Antero Espinoza Alzamora with any crime, and the case is considered closed. The police officers accused in the 1999 torture case of Jesus Natividad Roman Portocarrero were charged with abuse of authority, not torture; they received 2-year suspended sentences and a fine of \$286 (1,000 soles) each.

There were no new developments in torture cases from 1999 and 2000 involving the following victims: Catalino

Daga Ruiz, Bernardo Daga Ruiz, Mario Jimenez Roque; Julio Armando Uribe, Moises Paco Mayhua, and Victor Valle Cabello.

In the case of three police officers in Chinga, Ica, who detained Luis Enrique Rojas Vasquez in August 2000, beat him and threatened to torture him if he didn't confess to a robbery, the prosecutor dropped the charges of torture and abuse of authority and closed the case.

In the case of Amador Carmen Canchaparan, whom military officials arrested and allegedly tortured on a military base in April 2000, COMISEDH reported that a criminal court is expected to try army Major Max Espinoza Sanchez for abuse of authority. At year's end, the trial was at the judicial investigation stage.

In 1999 a special prosecutor charged several naval officers under the antitorture law for allegedly torturing Raul Teobaldo in 1998. IDL reported that the hearings were dismissed and the trial was declared null and void due to various problems, including allegations that there was collusion between members of the court and attorneys for the military defendants. A new trial was scheduled to begin in January 2002.

In the 1998 case of torture of Pedro Tintavera, at year's end, the NGO Peace and Hope reported that a court had tried and convicted the three police officers charged with torturing him. Sentencing was expected to occur in January 2002.

Journalist Fabian Salazar, who asserted in May 2000 that the SIN broke into his office, bound him, and confiscated videotapes that allegedly implicated government officials in corruption, presented his case to the IACHR after he fled the country. The IACHR accepted the case and was waiting to receive additional evidence at year's end.

In September the Government acknowledged the infringement on the rights of SIE officer Leonor La Rosa by four of her colleagues, who beat and tortured her in 1997. The Government rendered the 1999 indemnity awarded her by the Supreme Council of Military Justice of approximately \$1,500 (5,250 soles) null and void. The Minister of Defense issued a Supreme Resolution entitling La Rosa to free medical care, life insurance, and a disability pension of \$229 (800 soles) per month, which she accepted.

As in previous years, NGO's and the Human Rights Ombudsman received complaints that the military beat or otherwise mistreated some members of the military service. Mistreatment of military recruits continued to be a problem and possibly resulted in deaths of two recruits during the year (see Section 1.a.).

For example, COMISEDH reported that Frank Alfredo Romero Arrieta was in good health when he joined the military on February 19. On February 25, he told his family that his superior officers were abusing him physically and psychologically, and his family observed wounds on his face and hands. On February 28, Romero called his home and spoke to a family member. He begged the family member to get him out of the military facility, saying that officers were beating him frequently. On March 1, he had no feeling in his legs when he was taken to the Air Force Central Hospital; his spinal column was injured and he was unable to walk normally at year's end.

The authorities failed to resolve a number of cases of torture and mistreatment of military recruits from previous years, including the 1999 beating cases of Elvis Lopez Tuya and Jaime Palacios Sanche, who died as a result.

In June President Paniagua established a Truth Commission to consider human rights violations, including torture, committed by government security forces and armed insurgency groups over the past 20 years (see Section 4).

There continued to be credible reports that Sendero Luminoso was also responsible for acts of torture, including cases that resulted in death.

Citizens at times take the law into their own hands, meting out severe physical punishment to persons committing offenses such as robbery, burglary, rape, and child molestation.

There were occasional bombings or simulated bombings during the year, apparently by Sendero Luminoso. On May 16, a bomb exploded near the National Elections Board building in downtown Lima, injuring several persons. According to reports, two men were passing out Sendero Luminoso propaganda while a taxi waited; a woman left the bomb as a package on the sidewalk, and the three departed in the taxi. On four occasions in September, police were called to examine packages left in public places that appeared to be bombs; the

devices were accompanied by Sendero Luminoso propaganda, including leaflets with subversive slogans. No explosives were found on any of these four occasions. The May 16 bombing was the first in downtown Lima in several years.

Conditions are poor to extremely harsh in all prison facilities. About one-half of all prisoners are in facilities where the National Police have both internal and external control; the other half are in facilities under internal control of National Prison Institute guards and under external control by the police. Conditions are especially harsh in maximum-security facilities located at high altitudes. Low budgets, severe overcrowding, lack of sanitation, and poor nutrition and health care are serious problems. Prison guards and fellow inmates routinely victimized prisoners, and prison security forces committed four killings during the year (see Section 1.a.). Corruption is a serious problem among poorly paid prison guards, many of whom engage in sexual abuse, blackmail, extortion, narcotics trafficking, and the acceptance of bribes in exchange for favors that ranged from providing a mattress to arranging an escape. Since prison authorities do not supply adequate bedding and budget only about \$0.79 (2.75 soles) per prisoner per day for food, the families of prisoners typically must provide for these basic needs.

Overcrowding and inadequate infrastructure hamper efforts to improve prison living conditions. The 81 prisons and detention facilities held 26,769 prisoners at year's end. At Lima's San Juan de Lurigancho men's prison, the country's largest, more than 6,000 prisoners live in a facility built to accommodate 1,500. Inmates in all prisons have only intermittent access to running water; bathing facilities are inadequate; kitchen facilities remain generally unhygienic; and prisoners sleep in hallways and common areas due to lack of cell space. Illegal drugs are abundant in many prisons, and tuberculosis and HIV/AIDS are reportedly at near-epidemic levels. As of October, approximately 57 percent of all prisoners had not been sentenced (see Section 1.d.). Pretrial detainees are held together with convicted prisoners in most cases. Detainees held temporarily while awaiting arraignment in Lima are not provided with food. This temporary detention period lasts from a few hours up to 3 days. The detainees are not allowed outside for fresh air and have restricted access to bathrooms.

The International Committee of the Red Cross (ICRC) reports a shortage of trained medical personnel, unreliable and insufficient legal representation for prisoners, an insufficient number of social workers and psychologists, and a general lack of organization in prison administration.

According to human rights monitors, the Challapalca prison in Tarata, Tacna, seriously violates international norms and standards, particularly as a result of its isolation and high altitude. Located at 14,000 feet, Challapalca's freezing temperatures and oxygen-thin air have unavoidably detrimental effects on prisoner health. The prison can be reached only after an all-night bus ride from the nearest population center, limiting inmates' contact with family. To relieve some of the isolation, the ICRC funds periodic visits by families. Hospital care is 6 to 8 hours away, depending on road conditions, by overland transportation. Face-to-face consultations by inmates with their attorneys are rare. Isolation or punishment cells in this prison are extremely small and sometimes hold two prisoners at a time. Torture and abuse of inmates is common in Challapalca, and in February the authorities shot and killed two escaped prisoners (see Section 1.a.). In 1998 the International Federation of Human Rights, as well as visiting members of the IACHR and the Ombudsman, called on the Government to close the prison, but it remains in operation.

There were numerous prison protests during the year, including nine violent prison riots that occurred in Sarita Colonia prison in Callao, Castro Castro and Lurigancho prisons in Lima, San Antonio de Pocollay prison in Tacna, the Pisci prison, the Socabaya prison in Arequipa, and the Chachapayas prison.

Male and female prisoners are housed separately. In high-security prisons, female inmates are allowed to see their children once a week. In women's prisons, children 3 years of age and younger live with their jailed mothers. There are also separate juvenile facilities, in which conditions are not as harsh as those in adult prisons.

The Government permits prison visits by independent human rights monitors, including the ICRC. Members of the Ombudsman's office were allowed to visit the naval facility in Callao for the first time in December 2000 (see Section 4). The Ombudsman's office continued to visit the Callao facility during the year. The ICRC made 134 first-time visits to new inmates during the year and visited a total of 2,485 inmates in prisons, detention facilities, and juvenile detention facilities, including 7 visits to the maximum-security naval station in Callao. Unlike the previous year, neither the ICRC nor the Ombudsman's office were denied access to any prisons during the year.

d. Arbitrary Arrest, Detention, or Exile

There continued to be reports of arbitrary arrest and detention. The Constitution, Criminal Code, and

antiterrorist statutes delineate the arrest and detention process. The Constitution requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. However, the Organic Law of the National Police permits the police to detain a person for any investigative purpose. Although the authorities must arraign arrested persons within 24 hours, they often violate this requirement. In cases of terrorism, drug trafficking, or espionage, arraignment must take place within 30 days. Military authorities must turn over persons they detain to the police within 24 hours; in remote areas, this must be accomplished as soon as practicable. However, the authorities often disregard this requirement. Police abuse of detainees is a problem (see Sections 1.a. and 1.c.), and the abuse usually took place at the police station just after the arrest, while the detainee was held incommunicado. A law passed in December 2000 allows the authorities to detain suspects in investigations for corruption for up to 15 days without arraignment. The law also permits authorities to prohibit suspects under investigation for corruption from traveling abroad.

Detainees have the right to a prompt judicial determination of the legality of their detention and adjudication of habeas corpus petitions; however, according to human rights attorneys, judges continued to deny most requests for such hearings. In Lima and Callao, detainee petitions for habeas corpus had been restricted severely, because under a 1998 executive branch decree issued as part of the war on crime, only 2 judges were able to hear such petitioners, instead of the 40 to 50 judges in previous years, thereby significantly delaying justice. In December 2000, the Government restored the number of judges able to hear habeas corpus petitions to its original level as part of the restructuring of the court system.

Police may detain terrorism and treason suspects for a maximum of 15 days and hold them incommunicado for the first 10 days. Treason suspects, who are handed over automatically to military jurisdiction, may be held incommunicado for an additional 30 days. When suspects are held incommunicado, attorneys have access to them only during the preparation and the giving of sworn statements to the prosecutor.

In 2000 the special terrorism chamber of the superior court dismissed 300 arrest warrants of the estimated 4,000 to 5,000 persons still subject to detention orders (see Sections 1.e. and 2.d.). The Ombudsman's office estimates that this number actually may be higher. These cases involved many persons who allegedly were forced to participate in terrorist activities during the internal conflict, or who were accused falsely of links with terrorist groups. In 1998 the Human Rights Ombudsman called on the Government to rescind all outstanding detention orders that were more than 5 years old and to cancel all orders that did not comply with legal specifications. The Government did not comply with the Ombudsman's request; however, Congress enacted a new law on May 18 that allows these individuals to have their detention orders changed to court summonses. As of October, only one detention order had been converted in this manner (see Section 1.e.).

As of October, the Government had approved 90 pardons recommended by the ad hoc Pardons Commission and the Justice Ministry's Council on Human Rights, which evaluated and recommended pardons for persons convicted of terrorism. This brought the total to 726 pardons (see Section 1.e.).

Approximately 43 percent of a total prison population of 26,769 had been sentenced, according to the INPE. About 50 percent of the prison population remained incarcerated in Lima; of these, 65 percent have been convicted but remained unsentenced. The IACHR and the U.N. Commission on Human Rights have expressed concern about the large number of unsentenced prisoners. In December 2000, President Paniagua committed the Ministry of Justice to assess procedures for reviewing cases with pending sentences. The problem of prisoners who have served their terms and still have not been released continued. The Justice Ministry had recommended better ways to track the status of prisoners in the penal system, but NGO's report that, as of year's end, no progress had been made due to a lack of resources and organization.

According to the INPE, the elapsed time between arrest and trial in civil, criminal, and terrorism cases averages between 26 and 36 months, during which time suspects remain in detention. Those tried by military courts on treason charges generally do not have to wait more than 40 days for their trial; however, as trial procedures in military courts lack full due process protections, the speed with which trials are conducted offers little benefit to the defendants. Once trials have concluded, prisoners often have to wait long periods before being sentenced.

Human rights organizations reported that police routinely detain persons of African descent on suspicion of having committed crimes, for no other reason than the color of their skin, but rarely act on complaints of crimes against blacks (see Section 5).

Many individuals associated with the Fujimori administration are the targets of criminal investigations. Anticorruption legislation enacted in 2000 gave judicial authorities expanded powers to detain witnesses and suspects. Many of those detained under these laws complain that the cases against them are politically motivated, and some of the investigations appeared to have politically partisan overtones.

The Constitution does not permit forced exile, and the Government does not use it in practice.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice the judiciary has been subject to interference from the executive. It is also subject to corruption and is notably inefficient. Public confidence in the judiciary remains low.

There is a 3-tier court structure that consists of lower and superior courts and a Supreme Court of 33 judges. In November 2000, the Constitutional Tribunal resumed its mandate to rule on the constitutionality of congressional legislation and government actions. In late 2000, the Government restored the powers of the independent National Magistrates Council (CNM) to appoint, evaluate, and discipline judges and prosecutors. The Judicial Academy trains judges and prosecutors; it began to restructure its work after Congress abolished the mandatory 2-year training of all candidates for appointment. In May the Government appointed new members to the board of the Judicial Academy.

In 2000 President Paniagua began to reform the judicial branch. At the end of 2000, the Government abolished the executive committees responsible for provisionally appointing judges and prosecutors through which President Fujimori had exerted control over the judiciary. At the same time, the Government created transitory councils. At the end of their 90-day mandate, these councils had reassigned hundreds of provisional judges and prosecutors to positions more closely corresponding to their actual rank. The councils also removed judges associated with corrupt practices and reinstated others who had been unfairly separated. The CNM later suspended some and dismissed or prohibited others from holding office for up to 10 years. It returned others to lower courts where they belonged, in keeping with the Organic Law of Judicial Branch.

Beginning in January, the CNM exercised its constitutional authority to certify all judges and prosecutors who have served in their position for 7 years or more. By mid-November, of 364 judges and prosecutors the CNM evaluated, it had recertified 220, while 139 failed to be recertified. Failure to be certified disqualifies a judge or prosecutor from ever working in that capacity again. By year's end, the CNM also had sanctioned numerous judges following investigations into corruption. The CNM sanctions include suspensions, dismissals, and prohibition from holding office for as long as 10 years.

In August the CNM began naming judges and prosecutors to approximately 2,000 vacancies and positions occupied by provisional judges and prosecutors (who were appointed temporarily from a lower court or who were attorneys serving temporarily as judges and prosecutors). These provisional appointees represent roughly 80 percent of the country's approximately 1,565 civilian judges at all levels, including 21 of the 33 judges on the Supreme Court. Former President Fujimori's reliance on provisional and temporary judges had enabled the executive branch to influence cases and to more easily control the judicial branch. In some cases, the judges were assigned independently and without proper training. Critics also charged that since these judges lacked tenure, they were more susceptible to pressures. In September a congressional investigative panel found that former intelligence advisor Montesinos had improperly influenced cases. The majority of implicated officials either resigned or were suspended; at year's end, some were facing prosecution.

In May Congress enacted a law eliminating a 1996 requirement that mandated 2 years of training in the Judicial Academy prior to a person becoming a judge or prosecutor. This measure opened the ranks of the judicial system to a larger pool of candidates and allowed the CNM to fill vacancies. In August President Toledo nearly doubled the salaries of tenured judges and prosecutors to make work in the judiciary more attractive and to reduce corruption incentives.

In November 2000, Congress restored to the Constitutional Tribunal three judges who had been removed in 1997 after they had opposed the application of a law allowing President Fujimori to seek a third term. Their removal had deprived the court of a quorum to rule on constitutional issues and paralyzed the court. By year's end, Congress had removed one of the seven Tribunal members on corruption charges and the Tribunal was at times unable to reach the required six-member quorum. The Government paid each of the three reinstated judges \$25,000 to cover legal fees but has not compensated them further despite the Inter-American Court's ruling that it should do so.

During the year, the Tribunal decided 13 constitutional cases, 6 of them brought by the Ombudsman's office. In one of them, the court ruled that an electoral law provision banning the dissemination of exit poll results before 10:00 p.m. on election day (6 hours after the polls closed) restricted the public's rights to information (see Section 2.a.). In June the Tribunal declared unconstitutional a 1998 law that stripped 3,000 policewomen of their ranks as officers (see Section 5).

In May Congress passed another law that interprets the constitutional role of the president of the Supreme Court as head of the judicial branch and as such grants him more powers, including control of the judicial budget and the authority to make appointments in key administrative judicial positions.

In July a high-level anticorruption commission appointed by the Government underscored the need to strengthen the independence and transparency of the judiciary. It recommended a new mechanism to elect more transparently the president of the Supreme and superior courts and the subordination of the military justice system to the judicial branch. In October the Government appointed a national anticorruption coordinator, another of the commission's proposals. At year's end, 500 disciplinary actions were in process against judges and prosecutors who were involved in corrupt judicial practices under the Fujimori administration.

The justice system generally is based on the Napoleonic Code. In civilian courts criminal cases move through three distinct phases. First, in a lower court a prosecutor investigates cases and submits an opinion to the examining judge, who determines whether there is sufficient evidence to issue an indictment. If there is, the judge conducts all necessary investigations and prepares and delivers a case report to the superior court prosecutor. Second, the superior court prosecutor reviews the lower court decision to determine if formal charges should be brought and renders an advisory opinion to another superior court, where a three-judge panel holds an oral trial. Criminal case convictions in civilian courts may be appealed, in which case the Supreme Court hears appeals and confirms or rejects the previous decision. All defendants have the right to be present at their trial. Defendants also have the right to counsel; however, the public defender system often fails to provide indigent defendants with qualified attorneys.

There is a presumption of innocence, defendants may call witnesses, and there is a system of bail. Attorneys are supposed to have unimpeded access to their clients.

Under the military justice system, judges in the lower courts have the power to sentence and are required to pass judgment within 10 days of a trial's opening. Defendants may then appeal their convictions to the Superior Military Council, which has 10 days to make its decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue its ruling within 5 days. At the Superior Military Council and Supreme Council levels, a significant number of judges are active-duty officers with little or no professional legal training.

The Government's Ministry of Justice Commission reviewed laws governing the military justice system and issued a report in July with recommendations on changes to the Constitution, a few of which incorporated changes to the military justice system. The report went to Congress, and according to IDL, it is expected to be the main input for constitutional reforms by Congress. In July the Government published a draft proposal for a new military justice code, and as of October, it was still open for comments. By year's end, Congress had not acted on legislation to change the Code of Military Justice and the Military Justice Organic Law.

Military courts try cases of treason for civilians or military defendants; there have been no new trials for treason in military courts since November 2000. Military courts also used to try cases of civilians or military charged with "aggravated terrorism," but in November the Constitutional Tribunal ruled that all military tribunal trials for aggravated terrorism were unconstitutional and were, therefore, invalid. Under the Fujimori administration, aggravated terrorism charges were applied to crimes committed by armed gangs of delinquents as a means of deterring crime. At year's end, civilian courts were processing the cases of 152 of the approximately 600 persons tried in military courts under the aggravated terrorism law.

Terrorism is defined as being a terrorist leader or participating in a terrorist group's attack or activities. Human rights groups and legal experts have charged that the vaguely worded definitions of certain crimes in the antiterrorism statutes often led military judges to issue sentences disproportionate to the crimes committed. In 1999 Congress abolished the classification of acts of extreme violence such as criminal gang activity, homicide, kidnapping, and the use of explosives as aggravated terrorism. Under the new law, such cases are designated as "special terrorism," and civilian courts have jurisdiction over such crimes. Civilians charged with simple--as opposed to aggravated--terrorism are tried in civilian courts.

During the Fujimori administration, human rights groups and legal experts criticized the powers of the military courts to try civilians in cases of aggravated terrorism and the inability of the civilian judicial system to review military court decisions. Military courts may hold treason trials in secret. Such secrecy is not required legally, but in some cases the courts deemed that circumstances required it. Defense attorneys in treason trials were not permitted adequate access to the files containing the State's evidence against their clients, nor were they allowed to question police or military witnesses either before or during the trial. Some military judges sentenced defendants without even having notified their lawyers that the trials had begun.

Following the August 2000 Military Supreme Court decision to nullify the terrorism conviction and life sentence of U.S. citizen Lori Berenson, a civilian court tried her case. In June the court found Berenson guilty of collaboration with the MRTA terrorist group, one of two terrorism charges, and sentenced her to 20 years in prison. Berenson's appeal was pending with the Supreme Court at year's end. The IACHR was studying petitions filed on Berenson's behalf by her U.S. attorneys alleging both double jeopardy and due process violations in her civilian trial.

In June 1999, the Inter-American Court of Human Rights ruled against the Government in the case of four Chileans convicted of treason by a military tribunal and sentenced to life in prison. The Court found that the military had denied the defendants' due process rights provided by the American Convention on Human Rights and ruled that a civilian court should have had jurisdiction. It also ruled that military authorities held the suspects too long in pretrial detention; and that defense attorneys lacked access to witnesses and evidence and did not have sufficient time to review the case. Subsequently, the Supreme Court delegated to the Supreme Military Council the final decision regarding enforcement of the Court's decision. The Council had ruled that it could not grant the Chileans new civilian trials because laws passed after signing the Convention required military trials in cases of treason and aggravated terrorism. However, in May the Supreme Council of the Military Court invalidated the military court's decision and provided for new, civilian trials for the four Chileans. At year's end, the case was still at the instruction phase.

Prior to the June 1999 ruling, the Government had refused to accept the Inter-American Court's jurisdiction in cases involving terrorism because laws passed after signing the Convention establishing the Court required military trials in cases of treason and aggravated terrorism. In July 1999, the Fujimori Government decided to withdraw from the Court's contentious jurisdiction; in February Congress voted to return to the jurisdiction of the Inter-American Court of Human Rights (see Section 4).

In midyear the Inter-American Court provided the Ministry of Justice a clarification of its 1999 ruling that found incompatible with the American Convention on Human Rights two 1995 amnesty laws exempting military officials from prosecution that were used to protect those officers accused of the 1991 Barrios Altos massacre. Based on the clarification, the Government plans to bring other members of the security forces to justice in other human rights abuse cases (see Section 1.a.).

A specialized terrorism chamber of the superior court tries cases in the civilian jurisdiction. The chamber is based in Lima, but its judges travel to the provinces as needed. During the year, judges from this court traveled around the country to hear several hundred cases of persons with old warrants outstanding for terrorism charges. Of these, judges found several hundred persons innocent and ordered the cancellation of their warrants. Human rights NGO's and the Human Rights Ombudsman noted that this addresses the concerns of those who considered themselves innocent, but who feared coming forward for an abbreviated and unfair trial. Despite the chamber's action on many cases, detention orders remain pending against between 4,000 and 5,000 persons allegedly forced to join terrorist groups; in May Congress passed a law whereby individuals facing these pending detention orders may have their legal status changed to that of being subject to summons to appear in court when requested to do so.

In late 2000, the Government established a new Pardons Commission. As of October, 90 persons had been released from prison. Along with 636 persons pardoned between 1996 and 2000, a total of 726 persons have been pardoned and released after being accused unjustly of terrorism. At year's end, approximately 1,700 cases still were pending review (see Section 1.d.). NGO's advocated that the new commission expand its review to include all convictions and sentences rendered by military courts, but by October, the Government had not made a decision on the matter. The original ad hoc Pardons Commission, with a mandate to consider applications of those who believed themselves to be accused unjustly of terrorism, ended its work on December 31, 1999. By the end of 1999, 3,225 of a total of 3,878 persons accused of these crimes had applied for clemency, and 502 had received the Commission's recommendation for pardon. A December 1999 law assigned the Commission's functions to the Justice Ministry's National Human Rights Council. In 2000 the Council recommended (and President Fujimori granted) 32 pardons.

There was no congressional action by year's end on the Human Rights Ombudsman's 1999 recommendation for legislation for monetary compensation of persons released through the Pardon Commission's program. The matter was added to the agenda of the Truth Commission (see Section 4).

The Extrajudicial Conciliation Law, which Congress passed in 1997, was to have made conciliation a mandatory first step in most civil cases by January 2000; however, due to administrative and other delays, partial implementation of the law began in November 2000 in Trujillo and Arequipa, and in March in Lima and Callao. As of December, there were 392 conciliation centers in 20 jurisdictions, and the Justice Ministry had accredited over 10,000 "conciliators," of whom 60 percent are lawyers.

There were no reports of political prisoners. Sendero Luminoso and MRTA members charged with or serving sentences for terrorism are not considered to be political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence

The Constitution requires security forces to have a written judicial warrant to enter a private dwelling. However, there were reports that the authorities do not always observe this requirement in practice.

The Constitution provides for privacy of communication; and, unlike in previous years, there were few complaints that the Government violated this right.

The case of former SIE agent Luisa Margarita Zanatta Muedas, who fled the country in 1998, after allegedly providing information regarding SIE wiretapping operations, remained pending at year's end. She was charged with disobedience and being absent without permission. In 1999 the Human Rights Ombudsman recommended that the Government pardon Zanatta, that the Public Ministry investigate the wiretapping, and that Congress broaden the investigation conducted by its committee on defense. As of September, the Government had not taken action on those recommendations. At year's end, Zanatta's case was still under investigation and scheduled to be tried in a military court. The Ombudsman's Office requested that the military court take a deposition from Zanatta, who no longer resides in the country. Once the deposition is obtained, the trial may take place.

On December 16, the media broadcast a taped telephone conversation from November 18 between former President Alan Garcia and congressional leader Jorge del Castillo, who is also Secretary General of the American Popular Revolutionary Alliance (APRA), Garcia's political party. During the conversation, the two discussed a meeting that Garcia would have the following day with President Toledo. The Government denied involvement in the illegal wiretapping, and the ad hoc prosecutor filed a complaint to begin an investigation.

A law went into effect in January 2000 making military service voluntary and prohibiting forced conscription. Registration for military service remains obligatory for men aged 18 and older. The President retains the authority to decree the reestablishment of mandatory service. The Human Rights Ombudsman monitors the law's implementation, since past efforts to prohibit forced conscription did not prevent it. The Ombudsman's office received a few complaints of forced conscription during the year.

There were no reports of forced conscription by the MRTA (most of whose surviving members are jailed). Sendero Luminoso, however, continued to coerce indigenous persons to join its ranks (see Section 5).

The Ombudsman's office received no complaints during the year of abuses committed by family planning personnel; however, there were isolated reports that women did not take the full 72 hours to consider their alternatives, as is required by law, before undergoing voluntary sterilization procedures. This is generally attributed to the fact that some women arrive at a clinic ready to give birth and request the sterilization procedure be performed that day, rather than having to make arrangements to return to the clinic at another time.

Acting on allegations that more than 300,000 women were forcibly sterilized between 1995 and 2000 under the Fujimori administration, on October 25, Congress directed the Commission on Health to investigate the voluntary surgical sterilization program. Earlier investigations of the allegations found that primarily during 1996-97, health workers in public hospitals and family planning clinics administered by the Ministry of Health had induced female patients to opt for sterilization by promising them food or another type of goods or services, or by not providing them with complete information about available alternatives. In a 1999 report, the Ombudsman recommended that family planning practitioners provide all clients with complete information about alternatives available to them; not pressure clients into using any particular contraceptive method; and give patients who chose sterilization a 72-hour waiting period during which to consider that option. The Ombudsman also recommended that the Ministry integrate men fully into its family planning program, thereby disseminating reproductive and contraceptive information more equitably across gender boundaries. The Ministry of Health accepted the Ombudsman's report and implemented many of his recommendations.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and, unlike in previous years, the Government generally respected this right in practice, and the general climate for freedom of the press improved during the year; however, some problems remain. Manipulation of opposition journalists through the

judicial system and the use of government advertising revenues to influence reporting in print and broadcast media were no longer serious problems. During the year, the Government generally tolerated criticism and did not seek to restrict press freedoms. However, fear of legal proceedings and strong popular opinion discouraged public expressions of pro-Fujimori sentiments in the media. There were reports of some harassment and attacks on journalists, and some journalists practiced self-censorship.

Videotapes of bribes being paid to key figures in the media by Fujimori's intelligence adviser Montesinos confirmed that the Fujimori administration paid five of the six commercial television stations, much of the tabloid press, and at least one serious newspaper to run pro-Fujimori articles and editorials. Several prominent media executives were jailed pending investigation of corruption charges. At year's end, Eduardo Calmell, former director of the daily *Expreso*, was in jail, as were the minority shareholders of Channel 2 and the chairman of Channel 10. Others were fugitives at year's end, including the major shareholder and chairman of Channel 4, the major shareholder of Channel 5, and the chairman of the board and the manager of Channel 9. One was captured in Argentina and faced extradition proceedings.

The local civic association *Transparencia* considered that campaign press coverage was balanced and that access to it was generally open.

During the elections process, the Constitutional Tribunal ruled that an electoral law provision banning the dissemination of exit poll results before 10:00 p.m. on election day (6 hours after the polls closed) restricted the public's right to information (see Sections 1.e. and 3).

The press represents a wide spectrum of opinion, including those in favor of and in opposition to the Government. In the greater Lima area, there are 20 daily newspapers, 7 television stations, 65 radio stations, and 2 news channels on 2 commercial cable systems. There are numerous provincial newspapers and radio stations. All are privately owned except for one government-owned daily newspaper, one government-owned television network, and two government-owned radio stations, none of which has a particularly large audience.

The tabloid papers that were strong supporters of the Fujimori administration either have gone out of business or have changed their coverage to more typical, nonpolitical, tabloid fare. Broadcast television stations also have begun to show a balance in their political coverage and present both progovernment and opposition views. In April the only remaining overtly pro-Fujimori television station affiliated with pro-Fujimori daily *Expreso*, CCN, lost its cable frequency, ostensibly due to a commercial dispute with the near-monopoly cable provider, Cable Magico. There were indications that Cable Magico may have had ulterior political and financial motives for abruptly canceling its contract with CCN. On April 12, Telefonica published an advertisement saying that its cable system, Cable Magico, was canceling the frequency used by cable channel CCN because owner Manuel Ulloa didn't inform it of his transfer of shares to Vicente Silva, who was representing the Minister of Defense. On April 17, Telefonica published another advertisement saying that the cancellation of CCN's frequency was a business decision that was communicated to CCN in advance. Cable Magico's--and therefore Telefonica's--original stated intention was to carry two cable news channels with opposing viewpoints (Canal N and CCN) to ensure varied points of view. Other broadcasters and some legislators expressed concern over the effective silencing of an opposition news outlet. While the Government took no action in this case, it demonstrates an atmosphere where pro-Fujimori views were unwelcome, although not censored.

The Government has not yet paid the \$30 million in compensation that the Inter-American Court ordered paid to Baruch Ivcher for violating his rights to nationality, ownership, due process, and his freedom of expression rights, because the Government considered it too much and was negotiating a lower figure with Ivcher.

Libel is a criminal offense and cases are brought frequently by individuals--including political figures--against journalists. On September 2, Cecilia Valenzuela of Channel N's political program "Entre Lineas," said that APRA's leader Alan Garcia requested and obtained Montesinos's help to have the judiciary decide the prescription of Garcia's crimes, so that Garcia could return to the country and run in the last presidential elections. Garcia accused Valenzuela of libel, and the process was continuing at year's end.

During the year, Manuel Ulloa withdrew his \$1 million suit for libel and defamation against print opposition newspaper *Liberacion*, which had led to the seizure of the paper's printing press.

Also during the year, the Supreme Court dismissed the libel and defamation charges leveled by former pro-Fujimori Congressman Miguel Ciccía against *Editora Correo*.

At year's end, prosecutors had not closed their case for falsification of official documents against Guillermo Gonzalez, the then-director of the NGO *Prensa Libre* (and who later became President Toledo's press secretary), who broke a 1999 story on government wiretapping of opposition candidates.

On May 2, retired police Colonel Ildorfo Cueva brought charges of libel and defamation against reporters Jesus Castiglione, Martin Gomez, and Hugo Gonzalez, because they publicly accused him of torture. The reporters claimed that they were tortured, accused of terrorism, and unfairly imprisoned while Cueva was in charge of the antiterrorism unit in Ancash. Their reports led to the removal of Cueva from his position.

The Government does not censor the media. Revelations of the scope and depth of media corruption under the Fujimori administration have affected public confidence in the media, particularly television. Congressional committees investigating corruption under that administration have filed criminal complaints against media figures, and fears of future revelations encourage self-censorship by journalists wary of taking a position which may prove controversial in the current atmosphere or which may draw unwelcome government attention. At year's end, the congressional committee discussing the new Telecommunications Law, which had proposed creation of a media regulatory commission, still was studying the draft law submitted by the executive branch to the Congress.

A few journalists and media outlets reportedly were intimidated physically during the year. According to the National Journalists Association (ANP), 12 cases of harassment were reported through August, most of which took place in the provinces. The majority of these incidents took the form of threats of violence; initiation of or threats of judicial proceedings; and charges of slander from local politicians, police, military officials, or businessmen. For example, on February 4, the ANP strongly criticized a series of verbal attacks on journalists by public officials, many of whom were linked to either former President Fujimori or former de facto intelligence chief Montesinos. In the case of Alberto Pintado Villaverdo in Bagua Grande, municipal officials allegedly have threatened the journalist because of his criticism of official corruption in the mayor's office.

In February the Inter-American Press Association (IAPA) awarded the Chapultepec Grand Prize to former Human Rights Ombudsman Jorge Santiestevan for his support of freedom of expression. The IAPA also met with President Paniagua, members of Congress, and Supreme Court justices in an open forum with journalism and law students to discuss press freedom issues.

The Government does not censor books, publications, films, or plays, and does not limit access to the Internet.

The Government did not restrict academic freedom during the year.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right of peaceful assembly, and the authorities generally respect this right in practice. The police used tear gas and occasionally force to disperse protesters in various demonstrations during the year. The law does not require a permit for a public demonstration; however, organizers must inform the Ministry of Interior's political authority (Prefect) about the kind of demonstration and its location. Demonstrations may be prohibited for reasons of public safety or health. Municipal authorities routinely granted permission for demonstrations.

Political rallies were unimpeded throughout the campaign process. There were two incidents of violence targeted at one presidential candidate, Lourdes Flores of the National Unity Party, as she campaigned in La Victoria (Lima) and Iquitos. The police managed each situation and maintained control over the crowd without using violence.

Demonstrations during the year were mostly peaceful. There were protests by workers asking for higher wages and demonstrations by disgruntled citizens pressing various social and economic demands. According to labor advocates, groups were able to express their opinions publicly, while the National Police generally maintained order in a lawful manner. Police occasionally used tear gas against protesters and only detained a few participants in demonstrations.

The Constitution provides for freedom of association, and the authorities generally respected this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Catholic Church receives preferential treatment from the State. The Constitution establishes the separation of church and state; however, it also acknowledges the Catholic Church's role as "an important element in the historical, cultural, and moral development of the nation." The State thus maintains a close relationship with the Catholic Church and grants it a privileged status. The Catholic Church and Catholic clergy receive preferential treatment and tangible benefits from the State in the areas of

education, taxation of personal income, remuneration and taxation of institutional property. Teaching about Roman Catholicism in primary and secondary schools is mandatory. By law, the military may hire only Catholic clergy as chaplains, and Catholicism is the only recognized religion of military personnel.

All faiths are free to establish places of worship, train clergy, and proselytize. Religious denominations or churches are not required to register with the Government or apply for a license. Conversion from one religion to another is allowed, and missionaries may enter the country and proselytize.

All work-related earnings of Catholic priests and bishops are exempt from income taxes. Real estate, buildings, and houses owned by the Catholic Church are exempt from property taxes. The country's 52 Catholic bishops, as well as priests whose ministries are located in towns and villages along the country's borders, receive state remuneration in addition to the compensation paid them by the Catholic Church. Each diocese receives a monthly institutional subsidy from the Government. The Freedom of Conscience Institute (PROLIBCO), an NGO that favors strict separation between church and state and opposes the preferential treatment accorded to the Catholic religion, claims that the Government discriminates against non-Catholic groups by requiring payment of import duties and a sales tax on Bibles brought into the country. In May the Jehovah's Witnesses claimed that the Government denied them tax exemption for imported Bibles and other religious educational materials.

Catholic religious teaching is part of curriculum of public and private primary and secondary schools. Since 1977 public primary and secondary schools have offered only teaching about Catholicism, although some non-Catholic private schools provided non-Catholic religion courses. In 1998 the Government issued an executive order that mandates that all schools, public and private, must offer religious instruction as part of their education "without violating the freedom of conscience of the students, parents, or teachers." The Ministry of Education requires all primary schools, both public and private, to follow a set Catholic religion course. In 1999 the Education Ministry issued a directive to implement a 1998 decree that made it mandatory for school authorities to appoint religious education teachers, upon individual recommendations and approval by the presiding bishop of the local diocese. Most schools devoted 1 hour a week to such study.

Parents who do not wish their children to participate in the mandatory religion classes must request an exemption in writing to the school principal. Such requests are granted infrequently. Non-Catholics who wish their children to receive a religious education in their own faith are free to organize such classes, at their own expense, during the weekly hour allotted by the school for religious education, but must supply their own teacher. PROLIBCO objects to the requirement to teach the Catholic religion in the school curriculum, and claims that the alternatives available to non-Catholic parents violate the constitutional protection of privacy and confidentiality of one's convictions and beliefs. Approximately 90 persons from various non-Catholic churches, led by PROLIBCO, challenged this education practice before the Supreme Court and lost the case in December 2000. In May PROLIBCO presented its case before the IACHR.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the right of free movement; however, the authorities legally may restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Police may check travelers at control points throughout the country. There are no other political or legal constraints on foreign travel or emigration. Repatriates, both voluntary and involuntary, are not treated differently from other citizens.

The Constitution prohibits the revocation of citizenship. However, according to the Nationality Law, naturalized citizens may lose their citizenship for, among other reasons, committing crimes against the State, national defense, and public security, as well as for reasons that "affect the public interest and the national interest."

Sendero Luminoso occasionally interrupts the free movement of persons by setting up roadblocks in sections of the Upper Huallaga Valley and the Apurimac and Ene River Valleys.

Political violence in the 1980's and early 1990's resulted in the internal displacement of hundreds of thousands of persons and massive migration. Despite government and NGO efforts, many internally displaced persons (IDP's) lack basic documentation, such as birth certificates and voter registration cards. The Government's program for the Repopulation and Development of Emergency Zones (PAR) provides documentation that can be used both to request PAR assistance to return to one's community of origin and to apply for a national identity card.

Another unresolved problem related to the IDP's are pending arrest or detention orders against more than 4,000 persons allegedly forced to join terrorist groups or accused falsely of voluntarily joining such groups. On

May 18, Congress passed a law that allowed the detention orders to be changed to summonses to appear in court if requested by the person named in the order; however, as of September, only one such order had been changed (see Section 1.d.).

The law includes provision for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees in granting asylum and refugee status and recognizes the Catholic Migration Commission as the official provider of technical assistance to refugees and applicants for asylum. The commission also advises citizens who fear persecution at home and seek asylum abroad. As of year's end, the Catholic Migration Commission reported that the Government had recognized 72 individuals as new refugees. There were 793 refugees in the country. Refugees are allowed to live and work without restrictions and can apply for naturalization. The status of refugees is reviewed annually. The question of first asylum did not arise.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for the right of citizens to change their government peacefully. Following seriously flawed and controversial elections in April and May 2000, in September 2000 President Fujimori announced that he would exercise his constitutional power to convoke new national elections, to be held in April, and in which he would not be a candidate. In November 2000, Congress removed President Fujimori for "moral incapacity," and President of Congress Valentin Paniagua succeeded to the presidency. In July President Alejandro Toledo assumed the presidency following a peaceful transfer of power through generally free and fair national elections held in April and June. Voting is by secret ballot and mandatory for citizens between the ages of 18 and 70; however, members of the armed forces and the police, as well as felons, are ineligible to vote. The law bars groups that advocate the violent overthrow of the Government from participating in the political process.

In December 2000, the 120-member Congress approved the creation of multiple district representation for electing members to Congress, which was designed to provide better geographic representation. The legislature functions independently from the executive. After the April elections, the party breakdown in Congress was 45 seats, Peru Posible; 28 seats, APRA; 17 seats, Unidad Nacional; 13 seats, Decentralized Parliamentary Union; 11 seats, Independent Moralizing Front (FIM); 3 seats, Cambio 90-Nueva Mayoria; and 1 seat each for Solucion Popular, Renacimiento Andino, and Todos Por La Victoria. The length of a term in Congress is 5 years.

The Constitution establishes three bodies to administer elections: The National Board of Elections (JNE); the National Office of Electoral Processes (ONPE); and the National Registry of Identification and Civil Affairs (RENIEC). The JNE sets the legal parameters and rules on election-related disputes and challenges. The ONPE administers elections and the RENIEC issues election identity documents. Some observers voiced complaints about procedural problems related to administration of the electoral process and tabulation of ballots.

Many national and international observers considered that the presidential elections held in April and May 2000 had been manipulated in favor of then-President and candidate Alberto Fujimori. The democracy dialog sponsored by the Organization of American States (OAS), which began in response to these elections and intensified after former President Fujimori's resignation, officially ended in January when OAS Secretary General Cesar Gaviria dissolved the talks. In November 2000, President Paniagua issued a directive to state institutions, government officials, and the armed forces telling them to help foster neutrality by refraining from political involvement.

On April 8, first round presidential elections as well as congressional elections were held; observers found them to be generally free and fair. The local civic association Transparencia considered that campaign press coverage was balanced and that access to the media was generally open (see Section 2.a.). No presidential candidate received more than the 50 percent of the popular vote required to win in the first round (Peru Posible won 36.51 percent; APRA won 25.78 percent; Unidad Nacional won 24.3 percent; FIM won 9.85 percent; and four other political groups received less than 2 percent each). The top two candidates, Alejandro Toledo and Alan Garcia, advanced to the presidential runoff election that was held on June 3. The ONPE released more than 90 percent of the election results by April 11. Final results were released a month later, due to delays in resolving objections and complaints. The majority of complaints concerned the congressional election, and many were related to mistakes by poll workers filling out the vote tally sheets on election night. There were more than 20,000 complaints nationwide, a number that is fairly consistent with previous elections in the country. However, it took longer than normal for the complaints to be resolved, due in part to a lack of

standardized procedures at the Special Electoral Tribunals, which are regional branches of the JNE.

The second round presidential elections were held under the observation of national and international election monitors. Transparencia, the National Democratic Institute/Carter Center, the OAS, European Union representatives, and other monitors stated that they found both rounds of the national elections to be generally free and fair.

On June 12, the ONPE reported the following final results of the second round presidential election: Alejandro Toledo of Peru Posible, 53.08 percent and Alan Garcia of APRA 46.92 percent. Blank and null votes did not make up a significant percentage of the votes in the second round.

During the elections process, the Constitutional Tribunal ruled that an electoral law provision banning the dissemination of exit poll results before 10:00 p.m. on election day (6 hours after the polls closed) restricted the public's right to information (see Section 1.e.).

In July the Judicial Branch reopened the investigation into the falsification of over 1 million voter signatures that occurred during the 2000 elections. The authorities brought charges against Jose Portillo, former chief of ONPE, for election fraud in relation to the falsified signatures. At year's end, the trial was under way.

Also in July, the Congress modified the election law. The percentage of signatures required for the registration of a new political party was reduced from 4 percent to 1 percent of the voters who participated in the past election. The modified law prohibits reelection of a president to successive terms.

During the year, the Government investigated political abuses, and, by October, some 85 persons were under indictment on charges relating to corruption and abuse of authority. However, some individuals associated with President Fujimori have faced investigations under circumstances that suggest political motivations. On August 17, Congress removed two members of Congress who had been loyal to Fujimori--Luz Salgado and Carmen Lozada--after the release of a videotape of a meeting in which they voiced no objection to a conspiracy to undermine the integrity of a state institution. They were removed on grounds that they failed to abide by their oath of office to uphold the Constitution. In a vote requiring only a simple majority, the Congress voted to unseat the veteran legislators and, in effect, prohibit them from holding office for 10 years. The two argued that their removal from Congress disfranchised the voters who had elected them, and that the behavior they were charged with is not a crime. They were replaced by the next two legislators on their party's list, ordered by number of votes received in the election.

In September another congressional committee initiated proceedings to charge several ministers of Fujimori's administration with treason for endorsing various secret resolutions under which substandard arms were purchased, although the ministers otherwise appeared to have had no vote in the acquisitions and not to have personally benefited. Treason carries up to a life sentence.

Women and some minorities participate actively in government and politics; however, the percentages of women and minorities in government or politics do not correspond to their percentages of the population. A 2000 law states that at least 30 percent of each party's ballot for congressional elections, and at least 25 percent of candidates for municipal elections, must be female. In April voters elected 22 women to the 120-member Congress; there were 26 women in the previous Congress. There is 1 woman in the 16-member cabinet, the Attorney General is a woman, and there is 1 woman on the Supreme Court.

Traditionally, most leadership positions in government have been held by an elite minority of European descendants. President Toledo is the country's first elected president who comes from mixed Caucasian and indigenous ancestry. However, it is rare for indigenous persons, who make up more than one-third of the population, to hold high public office. After the elections, one member of the Aymara indigenous group served in Congress and was elected as the head of the Committee for Indigenous and Afro-Peruvian Affairs.

One cabinet minister is of Chinese descent. The Afro-Peruvian minority, unofficially estimated to be 3 to 5 percent of the total population, is not represented in the leadership of the executive branch of the Government. There are three Afro-Peruvian members of Congress.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government permitted numerous NGO's dedicated to monitoring and advancing human rights to operate freely; unlike in previous years, these groups reported no harassment or other attempts by the authorities to hinder their operations.

Most human rights NGO's are independent and generally objective. The National Coordinator for Human Rights (Coordinadora) is an umbrella organization for more than 60 human rights NGO's. The Coordinadora seeks to avoid politicizing its positions on human rights issues, although its constituent members may do so in their own names. A number of other human rights groups associated with the Catholic Church or with government institutions operate independently or on the margins of the Coordinadora.

The human rights community reported that the Paniagua and Toledo administrations began improving government-civil society relations. Paniagua's cabinet included several former NGO leaders. Paniagua and Toledo named human rights advocates, including the head of the Coordinadora, as members of the Truth and Reconciliation Commission. Unlike in previous years, government officials did not accuse NGO's or the IACHR of being overprotective of criminals and terrorists to the detriment of victims.

According to COMISEDH, military commanders often did not grant access to military facilities to local and international human rights monitors. In December 2000, the Human Rights Ombudsman's office was granted access to the Callao facility for the first time. The Ombudsman's office continued to have access to the prison at the Callao naval base, as well as other facilities during the year (see Section 1.c.). Not all government facilities provide access to the public; NGO's may work through the Ombudsman's office for information regarding a military facility.

The Office of the Human Rights Ombudsman receives funds from the Government and foreign governments and is considered an independent and effective institution. Congress votes to select the Ombudsman, who must receive at least a two-thirds majority of votes and serves a 5-year term. At year's end, there was an interim Ombudsman as the former Ombudsman left office in December 2000 to run (unsuccessfully) for president in the April elections. The Ombudsman's office has investigative independence and the ability to inform the public of its conclusions and recommendations. However, the office has no enforcement mechanism other than moral suasion. The Ombudsman's office issued reports throughout the year on the elections (see Section 3), the activities of the ad hoc Pardons Commission, the status of 4,000 unresolved disappearance cases, women's rights, and an annual report on the overall human rights situation, among others.

In February the country returned to the jurisdiction of the Inter-American Court of Human Rights. In July 1999, the Fujimori Government withdrew from the Court after the Court determined that the Government failed to provide due process in the case of four Chileans convicted of treason by a military tribunal (see Section 1.e.).

In June President Paniagua established a Truth Commission to consider human rights violations committed by government security forces and armed insurgency groups over the past 20 years. The armed forces pledged their support for the commission. In July President Toledo offered full support to the Commission, renaming it the Truth and Reconciliation Commission. President Paniagua had appointed seven members to the Commission and President Toledo appointed five additional members. The members are from various academic, religious, political, military, and human rights backgrounds. Members of the local human rights community criticized the selection of some commissioners, including a member of Congress who was close to former President Fujimori, and another who has a family member who is involved with Sendero Luminoso. After a 90-day internal organization period, the Commission began its work on November 13. The Commission plans to present its final report on February 13, 2003.

The Truth and Reconciliation Commission has a mandate to analyze the political, social, and cultural conditions that fostered an era of violence between May 1980 and November 2000, during which more than 25,000 persons were killed and an estimated 6,200 persons disappeared. The Ombudsman is expected to continue to gather and present evidence on other cases to the Commission. The Commission also is to clarify abuses of human rights committed by terrorists and the State; locate the victims or their remains; determine individual or institutional responsibility for these violations; propose a system of reparations for the victims' families; recommend institutional, legal, and educational reforms; and propose initiatives designed to advance peace, the rule of law, national reconciliation, and democracy. The Commission has no authority to prosecute alleged perpetrators.

In 2000 unknown persons burglarized the offices of two NGO's--COMISEDH, and Peace and Hope. COMISEDH reported that there was an investigation, but that there was insufficient evidence to make a case and no charges ever resulted in relation to the theft of computers from its offices.

There were no reports of Sendero Luminoso hampering the work of human rights monitors.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides for equal rights for all citizens, and specifically prohibits discrimination based on

ethnic origin, race, sex, language, religion, opinion, or economic condition. However, discrimination against women, persons with disabilities, indigenous people, and racial and ethnic minorities persists, although progress is being made in a number of areas.

Women

Violence against women, including rape, spousal abuse, and sexual, physical, and mental abuse of women and girls, is a chronic problem. Such abuses are aggravated by insensitivity on the part of law enforcement and judicial authorities toward the female victims. A National Institute of Statistics and Information (INEI) survey reported that during 2000 at least 41 percent of women were battered by their partner, and that 16 percent of those women were battered frequently. PROMUDEH and NGO's agree that many domestic abuse cases are never reported. Although official figures for the number of arrests and convictions in abuse cases are unavailable, NGO sources contend that the majority of reported cases do not result in formal charges due to fear of retaliation from the accused spouse, or because of the cost involved in pursuing a complaint. In addition, legal and physical protection is limited by delays in legal processes, ambiguities in the law, and lack of alternative shelter and income for victims.

The domestic violence law gives judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family's home; authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence; and allows any health professional to certify injuries. In March 2000, Human Rights Watch called on the Government to improve legislation on domestic violence by eliminating mandatory conciliation sessions between victims and abusers, and by providing law enforcement and social service providers with training to improve their sensitivity to victims' needs. In January Congress approved a law that states that conciliation sessions between the abuser and victim are not required in cases of domestic violence. In June 2000, the Government enacted legislation that expanded the definition of domestic violence to include sexual violence, and to include all intimate partners whether or not the victim and perpetrator have ever lived together.

The Ministry of Women's Advancement and Human Development (PROMUDEH) runs the Women's Emergency Program to call attention to the legal, psychological, and medical problems facing women and children who were victims of violence. PROMUDEH operates 34 centers, staffed entirely by women, which bring together representatives of all government institutions--police, prosecutors, counselors, and public welfare agents--to which abused women might have recourse. During the year, the centers each saw about 300 victims of domestic violence and abuse each month. PROMUDEH continued its public education campaign to sensitize government employees and the public to domestic violence. With NGO assistance, PROMUDEH educates police about domestic violence and trains officers in all police stations in processing domestic violence cases. The Human Rights Ombudsman's Office continued to complain that officers react indifferently to charges of domestic violence, even though the law requires all police stations to receive such complaints.

According to the Human Rights Ombudsman, many rape victims complain that court-appointed medical examiners inappropriately delved into their past sexual histories. The victims also have accused judges of looking more favorably on rape victims who were virgins prior to the rape and of believing that a woman who was raped must have enticed her attacker. Many victims are afraid of personally filing a complaint of sexual abuse, particularly in cases where the perpetrators were police officers.

Prostitution is legal, but the law prohibits and sanctions activities of those who would obtain benefits from prostitution, such as pimping.

There is no law prohibiting sexual harassment, and sexual harassment is a problem, according to the Ombudsman's office.

Unlike in previous years, the Ombudsman's office received no complaints of abuses committed by family planning personnel during the year; however, there were isolated reports that women were not given the full 72-hours to consider alternatives, as is required by law, before undergoing voluntary sterilization procedures. This is generally attributed to the fact that some women arrive at a clinic ready to give birth and request that the sterilization procedure be performed that day, rather than having to make arrangements to return to the clinic at another time (see Section 1.f.).

The Constitution provides for equality between men and women, and 95 amendments to the Employment Promotion Law, as well as other laws relative to marriage, divorce, and property rights, prohibit discrimination against women. Racial and sexual discrimination in employment advertisements or announcements of educational training opportunities are prohibited; however, they continue to occur in practice. In June the Constitutional Tribunal declared unconstitutional a 1998 law that stripped 3,000 policewomen of their ranks as

officers. The law prohibits the arbitrary firing of pregnant women.

Traditional assumptions and misconceptions often impede access by women to leadership roles in both the public and private sectors. Due to societal prejudice and discrimination, women historically have suffered disproportionately from the country's pervasive poverty and unemployment.

Children

The Government provides free, compulsory education through secondary school. Education is generally available throughout the country. However, largely because of widespread poverty, approximately one-third of all school-age children and adolescents work during daytime hours rather than attend school. Approximately 6 percent of children between the ages of 6 and 12, and 17 percent of adolescents between the ages of 12 and 17, either never have attended school or have abandoned their education. Among children and adolescents who live in poverty or extreme poverty, the corresponding figures are 51 percent for children ages 5 to 9 years old and 49.9 percent for children age 10 to 14. School nonattendance is highest in rural and jungle areas and affects girls more than boys. Pregnant school-age girls have the right to begin or continue attending school.

An INEI survey conducted during 2000 estimates that nearly 70 percent of the country's 10 million children under 18 years of age live in poverty; of them, roughly 20 percent live in extreme poverty. The survey indicates that 48 percent of urban and 62 percent of rural school-aged children suffer from malnutrition, and almost 50 out of every 1,000 children die before age 5. The infant mortality rate is 39 per 1,000. According to INEI, approximately 75 percent of children not living in poverty attend school through the high-school level, whereas, only 43 percent of children living in poverty reach high school. Children living in poverty average only 4.5 years of education compared to 9.3 years for children living above the poverty line. Only 1.2 percent of children living in extreme poverty attain university-level education, compared with 25.6 percent of children who live above the poverty line.

PROMUDEH's Children's Bureau coordinates child and adolescent related government policies and programs. At the grassroots level, 1,010 Children's Rights and Welfare Protection Offices receive and resolve complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operate approximately 55 percent of these offices, while schools, churches, and NGO's run the remaining 45 percent. Law students staff most of the units; only the offices in the wealthiest districts of the country have professionally trained lawyers, psychologists, and social workers. When these offices cannot resolve cases, officials typically refer them to the local prosecutors' offices of the Public Ministry. Settlements adjudicated by these offices are binding legally and have the same force as judgments entered by a court of law.

Violence against children and the sexual abuse of children are serious problems. The INEI survey showed that an estimated 41 percent of parents abuse their children. In rural areas, this figure increases to 55 percent. The Municipal Ombudsman's Office for Children and Adolescents for Lima and Callao documented 586 sexual assaults against children 5 years of age and under; 2,937 against children aged 6 to 12; and 5,935 against children aged from 13 to 17 that occurred during 2000. The report confirmed that 70 percent of the assaults occur in the home by a relative or someone known to the victim and the victim's family. According to NGO's, many abuse cases are never reported to the authorities, since many persons believe that such problems belong within the family and should be resolved privately. PROMUDEH's Women's Emergency Program works to address the legal, psychological, and medical problems facing women and children who are victims of violence.

Although laws exist that prohibit sexual abuse of minors and police enforce such laws, there continued to be reports of child prostitution.

Street crime committed by children and adolescents, including robbery, physical assault, and vandalism, is often gang-related. The Government rescinded laws that allow 16- to 18-year-old criminal gang members to be prosecuted in military courts and sentenced to a minimum of 25 years in adult prisons (see Section 1.e.).

Child labor is a serious problem (see Section 6.d.).

The National Initiative on the Rights of the Child is the largest NGO of its kind and coordinates the work of 27 groups concerned with the problems of children throughout the country.

Persons with Disabilities

The Constitution provides that persons with severe disabilities have "the right to have their dignity respected

and to be provided by law with protection, care, rehabilitation, and security." Legislation that established the National Council for the Integration of People with Disabilities specifies rights, allowances, programs, and services. The law prohibits discrimination, mandates that public spaces be barrier-free and that buildings be architecturally accessible, and provides for the appointment of a disability rights specialist in the Human Rights Ombudsman's office. However, in practice the Government devotes little attention and resources to persons with disabilities, and they remain economically and socially marginalized.

The Government does not allocate sufficient funds to make genuine integration of persons with disabilities into the economy possible. However, during the year Congress increased the annual budget allocated to integrate persons with disabilities into the economy from \$250,000 to \$457,000. Although the law prohibits discrimination in the workplace, it is vague regarding the source of funds to pay for the human assistance, technological support, and environmental adaptations that often are necessary to enable workers with disabilities to be productive. As a result, persons with disabilities and the private agencies serving them generally must rely on public charity and on funding from international organizations.

The 1993 census counted 288,526 persons with disabilities, or 1.3 percent of the population; however, during the year, the Ministry of Health and the Pan American Health Organization estimated that the actual number of persons with disabilities could be as high as 3 million, or 13.8 percent of the population.

Although construction regulations mandate barrier-free access by persons with physical disabilities to public service buildings, no effort has been made to implement this provision. There are no accommodations, such as interpreters for the deaf in government service offices and Braille or recorded versions of the Constitution, which would facilitate the participation of persons with disabilities in the basic processes of democracy and citizenship. However, the Human Rights Ombudsman reported that a program to facilitate voter education and access for persons with disabilities during the elections was successful.

According to officials of the Institute for Social Security, less than 1 percent of persons with severe disabilities actually work. Among those who do, many have been channeled into occupations traditionally assumed to be "suitable" for persons with disabilities, such as telephone switchboard operation and massage, in the case of the blind. Some private companies have initiated programs to hire and train persons with disabilities, and a private foundation provides small loans to persons with disabilities to start up businesses. Nevertheless, such persons faced discrimination by potential employers. For example, the statute governing the policies and procedures of the judicial branch specifically prohibits the blind from serving as judges or prosecutors, a provision that the National Judiciary Council has interpreted to apply to all persons with disabilities.

Indigenous People

The Constitution prohibits discrimination based on race and provides for the right of all citizens to speak their native language; however, the large population of indigenous persons still faces pervasive societal discrimination and social prejudice. Many factors impede their ability to participate in, and facilitate their deliberate exclusion from, decision making directly affecting their lands, culture, traditions, and the allocation of natural resources. According to indigenous rights groups, the 1993 Constitution and subsequent implementing legislation are less explicit about the inalienability and unmarketability of native lands than earlier legislation. Pervasive discrimination and social prejudice intensify feelings of inferiority and second-class citizenship. Many indigenous persons lack basic documents such as a birth certificate or a voter's registration card that normally would identify them as full citizens and enable them to play an active part in society.

Many other factors also contribute to the marginalization of indigenous people in society. Poor transportation and communications infrastructure in the highlands and in the Amazon jungle region makes political mobilization and organization difficult. The geographic isolation of much of the indigenous population and the centralization of government in Lima further limit the access and participation of indigenous people in society.

The native population of the Amazon region, estimated at between 200,000 and 300,000 persons, faces pervasive discrimination and social prejudice. In accordance with local culture and traditions, most of the native communities have a spiritual relationship with their land, and the concept of land as a marketable commodity is alien to them. Nevertheless, according to the director of the Human Rights Ombudsman's Native Communities Program, the only right still statutorily set aside for this native population with respect to its land is that of "unassignability," which prevents the title to such lands from being reassigned to some nonindigenous tenant by right of tenure. However, the marketing and sale of the lands are no longer prohibited.

Indigenous groups continue to resist encroachment on their native lands by oil exploration and drilling interests. Many indigenous persons do not have title to the land on which they live. For those who do, there exists the problem that title to land does not include mineral or other subsoil rights; this condition could lead to conflicts between mining interests and indigenous communities. Indigenous groups assert that such

encroachment often can damage the environment and negatively affect the health of the native people. For example, the 45,000 Aguaruna and the Huambisa, who inhabit an area near the border with Ecuador, are only two of many indigenous groups that complain about intolerable living conditions and inaccessible public services. In the same region, along the Pastaza River, the 4,700 members of the Achuar people live in 36 communities, only 12 of which have title to their land.

Persons of indigenous descent who live in the Andean highlands speak Aymara and Quechua, recognized as official languages. They are ethnically distinct from the diverse indigenous groups that live on the eastern side of the Andes and in the tropical lowlands adjacent to the Amazon basin.

The Government's Indigenous Affairs Commission has a mandate to coordinate state services to meet the needs of indigenous people. The Commission, which is chaired by PROMUDEH, has among its members officials from a variety of relevant ministries as well as four representatives of the indigenous peasant population in the highland and coastal areas and the native population of the Amazon jungle. In 1999 Congress created an Indigenous Affairs Committee, currently chaired by Paulina Arpasi, a woman of the Amayra community.

President Toledo is the country's first elected president who comes from mixed Caucasian and indigenous ancestry.

The two principal NGO's that represent the interests of the native population of the Amazon region are the Inter-Ethnic Association for the Development of the Peruvian Jungle (AIDSEP) and the Confederation of Amazonian Nationalities of Peru (CONAP). Both organizations joined the Permanent Conference of Indigenous Peoples, an umbrella body that coordinates the activities of the country's indigenous population. CONAP believes that mining and other development operations are inevitable and, therefore, wants native communities to share appropriately the benefits. AIDSEP opposes territorial encroachments. Both AIDSEP and CONAP are critical of the 1995 land law, which permits Amazonian land to be bought and sold if no one is living on it or otherwise making use of it.

Sendero Luminoso continued to be a leading violator of the rights of indigenous people. Isolated primarily along the Ene River in Junin department, the terrorist group continued to coerce indigenous peasants into joining its ranks and to demand war taxes.

National/Racial/Ethnic Minorities

In December 2000, Congress passed legislation that made racial discrimination a crime, with penalties varying from 30 to 60 days of community service. However, for public officials the sentence is between 60 and 120 days of community service; they also are disqualified from holding public office for 3 years. The country's population includes several racial minorities, the largest of which are persons of Asian and African descent. Afro-Peruvians, who tend to be concentrated along the coast, often face discrimination and social prejudice, and they are among the poorest groups in the country.

Afro-Peruvians generally do not hold leadership positions in government, business, or the military; however, there are three Afro-Peruvian members of Congress. Both the navy and the air force are believed widely to follow unstated policies that exclude blacks from the officer corps. The law prohibits newspaper employment advertisements from specifying the race of the candidates sought, but employers often find discreet ways to relegate blacks to low-paying service jobs. The law prohibits various forms of discrimination by retail establishments against prospective customers. However, the law has not deterred significantly discriminatory practices.

According to two organizations specializing in the rights of persons of African descent, police continue to detain persons of African descent on suspicion of having committed crimes, on the basis of their skin color. Similarly, police rarely act on complaints of crimes against Afro-Peruvians. Afro-Peruvians are often portrayed unflatteringly by the entertainment industry as individuals of questionable character.

Although Peruvians of Asian descent historically have suffered discrimination, their social standing has improved markedly as the country has sought to emulate Asia's earlier economic growth and as the Asian community achieved financial success. Many persons of Asian descent hold leadership positions in business and government.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the law provide for the right of association; however, worker rights advocates claim that the laws are overly restrictive. About 5 percent of the formal sector workforce of 8.5 million belong to organized labor unions. It is estimated that close to half of all workers participate in the informal sector of the economy. Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers are not required to seek authorization prior to forming a trade union, nor may employers legally condition employment on union membership or nonmembership. However, groups including the International Confederation of Free Trade Unions (ICFTU) assert that laws promulgated by the Fujimori administration in 1992, as well as provisions included in the 1993 Constitution, fail to protect the rights of workers to form unions. Labor advocates claim that many workers are reluctant to organize due to fear of dismissal.

According to the International Labor Organization (ILO), several aspects of the labor law are not consistent with the international standard of freedom of association. The ILO has criticized specifically a provision that permits businesses to employ up to 30 percent of their workforce from workers between the ages of 16 to 25; workers in this age bracket are precluded from union membership and participation. As of year's end, the Government had enacted no legal changes.

In December 2000, President Paniagua established a tripartite National Labor Council for the Government, workers, and business to address labor problems. In September President Toledo reinstated the National Labor Council and opened two regional councils, one in Arequipa and one in Cusco, to address labor issues unique to each region.

Unions represent a cross section of political opinion. Although some unions traditionally have been associated with political groups, the law prohibits unions from engaging in explicitly political, religious, or profit-making activities. Union leaders who ran for Congress in the elections did so without official union sponsorship. Nevertheless, some union activists who run for public office receive unofficial backing from their unions.

The ILO has requested modifications to the laws that regulate the right to strike, including a requirement that a majority of workers in an enterprise, regardless of union membership, must vote in favor of any strike. Official strikes require secret ballot approval by a majority of all workers in a company, whether union members or not; labor activists find the requirement to be onerous. A second vote must be taken, if at least 20 percent of the workers petition it. However, labor rights advocates complain that many workers are reluctant to participate even in secret ballots, due to fear of employer retaliation, particularly since a full list of workers who attend meetings in which such votes are taken must be submitted to management. Strikes may only be called in defense of labor rights.

There were numerous peaceful strikes and work stoppages during the year. The Government took no actions to prevent the strikes or to reprimand participants. There were confrontations between union-affiliated protesters and police. No abuses were reported when the police removed roadblocks set up by protesters.

The law restricts unions that represent workers in public services deemed essential by the Government from striking. However, there were strikes during the year, including strikes by public workers.

There are no restrictions on the affiliation of labor unions with international bodies. Several major unions and labor confederations belong to international labor organizations such as the ICFTU, the international trade secretariats, and regional bodies.

b. The Right to Organize and Bargain Collectively

The Constitution recognizes the right of public and private sector workers to organize and bargain collectively; however, it specifies that this right must be exercised in harmony with broader social objectives. Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. The regulations prohibit probationary, apprentice, and management employees from union membership. The law does not prohibit temporary employees from joining a union, but they may not join the same union as permanent workers.

According to the regulations, union officials must be active members of their union, but the number of individuals each union may designate as "official" is limited, as is the amount of time they may devote to union business on company time. The Labor Code requires employers to reinstate workers or compensate financially those whom companies have fired for union activities. It is illegal to fire workers for union activities, although reports from labor activists indicate that this is a common practice. The labor movement criticizes the amended Employment Promotion Law, which it asserts makes it easier for employers to dismiss employees and thereby to impede the right of workers to bargain collectively. There are no legal restrictions that prevent unions from

negotiating for higher levels of worker protection than the baseline standards provided for by law.

A union must represent at least 20 workers in order to become an official collective bargaining agent. Representatives may participate in collective bargaining negotiations and establish negotiating timetables. Management negotiating teams may not exceed the size of union teams, and both sides are permitted to have attorneys and technical experts present as advisers.

In November 2000, the ILO's Committee of Freedom of Association recommended that the Government enforce legislation protecting workers from dismissal on account of membership in a union or participation in union activities. The Government has taken no action on this request.

The main union confederations criticize the Employment Promotion Act, amended in 1995 and 1996, for restricting the rights of workers, including the freedom of association. Unions also complain that the law eliminates the right of dismissed workers to compulsory reinstatement if they prove that employers dismissed them unjustly. In practice, companies offer financial compensation instead of reinstatement as the legislation allows. Although the law prohibits companies from firing workers solely for involvement in union activities, this provision has not been enforced rigidly. There is no legal protection against employer interference in trade unions.

Labor regulations permit companies unilaterally to propose temporary changes in work schedules, conditions, and wages, and to suspend collective bargaining agreements for up to 90 days, if obliged to do so by worsening economic circumstances or other unexpected negative developments, provided that they give their employees at least 15 days' notice of such changes. However, worker rights advocates allege that, in practice, few employers respected this provision. If workers reject an employer's proposed changes, the Ministry of Labor is required to resolve the dispute based on criteria of "reasonableness" and "economic necessity." Whether the changes proposed by employers in such instances are upheld in full or in part, employers are required to adopt all possible measures, such as the authorization of extra vacation time, in order to minimize the negative economic impact on their employees.

Although a conciliation and arbitration system exists, union officials complain that their proportionate share of the costs of arbitration often exceeds their resources. In addition, union officials claim that, as the law prohibits temporary workers from participating in the same union as permanent workers, companies have resorted to hiring workers "temporarily" to prevent increases in the number of union members. Although the law restricts the number of temporary workers hired to 20 percent of a company's work force, worker rights advocates allege that this quota rarely is respected. Employers deny that they are biased against unions, and argue that the labor stability provisions of the legislation have made long-term commitments to workers too expensive.

There are four export processing zones (EPZ's). Special regulations aimed at giving employers in EPZ's and duty free zones a freer hand in the application of the law provide for the use of temporary labor as needed, for greater flexibility in labor contracts, and for setting wage rates based on supply and demand. As a result, workers in such zones have difficulty unionizing. Worker rights advocates admit that these zones are few in number and do not contribute substantively to labor's unionizing difficulties.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor, and there were no reports of forced labor during the year. The law specifically prohibits forced or bonded labor by children. According to PROMUDEH and the Ministry of Labor, there were no reports of forced child labor. Forced labor previously was found in the gold mining industry in the Madre de Dios area; however, the changing nature of the industry and government efforts to regulate it seem to have addressed the problem. NGO sources and the ILO reported in 1999 that mechanization largely has replaced manual labor, and the Ministry of Labor inspection programs helped deter illegal child labor in this industry.

d. Status of Child Labor Practices and Minimum Age for Employment

The Child and Adolescent Code of 1992 governs child and adolescent labor practices and restricts child labor based upon the age of the child, hours worked, and occupation; however, child labor is a serious problem. The legal minimum age for employment is 14; however, children between the ages of 12 and 14 may work in certain jobs if they obtain special permission from the Ministry of Labor and certify that they also are attending school. In August the Ministry reported that 2,228 of these requests for permission to work have been approved. In certain sectors of the economy, higher minimums are in force: age 14 in agricultural work; age 15 in industrial, commercial, or mining work; and age 16 in the fishing industry. The law prohibits children from engaging in certain types of employment, such as work underground, work that involves the lifting and carrying

of heavy weights, work where the child or adolescent is responsible for the safety of others; night work; or any work that jeopardizes the health of children and adolescents, puts at risk their physical, mental, and emotional development, or prevents their regular attendance at school. As many as 1.9 million children work primarily in the informal sector to help support their families. Of this total, NGO's estimate that some 600,000 children are under the age of 12.

Human and labor rights groups criticized the modification of the Child and Adolescent code, passed in August 2000, that maintained the minimum age for work at 12 years old (with permission), and argued that it contradicts international guidelines on the minimum age of child workers. On May 10, Congress ratified ILO Convention 138 on the minimum working age. In October Congress ratified ILO Convention 182 on elimination of the worst forms of child labor.

Many children are pressed to help support their families from a very early age by working in the informal economy, where the Government does not supervise wages or working conditions. Other children and adolescents work either in formally established enterprises or as unpaid workers at home. There are reports of child prostitution (see Section 5).

Adolescents must be authorized to work and must be registered unless they are employed as domestic workers or as unpaid family workers. Adolescents may only work a certain number of hours each day: 4 hours for children ages 12 through 14, and 6 hours for children ages 15 through 17. Adolescent employment must be remunerated in accordance with the principle of equal pay for equal work. In practice, the Child and Adolescent Code provisions are violated routinely in the informal sector. Child and adolescent laborers work long hours in the agricultural sector. Other children reportedly are employed at times in dangerous occupations or in high-risk environments, such as informal gold mining, garbage collection, loading and unloading produce in markets, brick making, coca cultivation, or work in stone quarries and fireworks factories, among others. Some child and adolescent labor tends to be seasonal.

Firms found guilty of violating child labor laws can be fined and operations suspended. The Ministry of Labor's inspectors have legal authority to investigate reports of illegal child labor practices. Inspectors conduct routine visits without notice to areas where child labor problems are reported. Inspectors maintain contact with a wide variety of local NGO's,

church officials, law enforcement officials, and school officials. The Ministry reports that there are a total of 150 labor inspectors, of which 65 work in Lima. These inspectors conduct all labor inspections, both for adults and children. Labor inspections are primarily conducted in the formal sector. The National Police and local prosecutors exercise law enforcement authority. The Children's Rights Defender reports to PROMUDEH.

The Constitution does not prohibit specifically forced or bonded labor by children, although there are laws that prohibit this practice, and there were no reports that it occurred (see Section 6.c.).

e. Acceptable Conditions of Work

The Constitution provides that the State promote social and economic progress and occupational education. It states that workers should receive a "just and sufficient" wage to be determined by the Government in consultation with labor and business representatives, as well as "adequate protection against arbitrary dismissal."

In March 2000, the Government raised the statutory minimum wage from \$117 (410 soles) a month to \$128 (450 soles), which is not considered sufficient to provide a decent standard of living for a worker and family. The Government estimates the poverty line to be approximately \$45 (157 soles) a month per person. However, this figure varies from region to region. According to some estimates, as much as half the work force earns the minimum wage or below, because such a great proportion work in the informal sector, which is largely unregulated. The Ministry of Labor is responsible for enforcing the minimum wage.

In April Congress passed legislation that increased the Labor Ministry's ability to enforce compliance with laws requiring businesses to pay social security and other benefits.

The Constitution provides for a 48-hour workweek, a weekly day of rest, and an annual vacation. In addition, it prohibits discrimination in the workplace, although discrimination continued to be a problem in practice. A Supreme Decree states that all workers should work no more than 8 hours per day; however, in practice labor advocates state that workers are pressured to work longer hours to avoid dismissal.

While occupational health and safety standards exist, the Government lacks the resources to monitor firms or

enforce compliance. Labor advocates continued to argue that the Government dedicates insufficient resources to enforce existing legislation. The Ministry of Labor employs a force of 150 inspectors to carry out unannounced visits throughout the country. In September the Minister of Labor announced that 80 percent of the companies inspected were found to be in compliance with labor laws. The Ministry of Labor continued to receive worker complaints and intervened in hundreds of cases.

When firms are found to be in violation of the law, the Government sanctions them with fines or, in some cases, closure. In cases of industrial accidents, the level of compensation awarded to the injured employee usually is determined by agreement between the employer and the individual involved. The worker does not need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist in law for workers to remove themselves from potentially dangerous work situations without jeopardizing their continued employment.

f. Trafficking in Persons

A 1999 law prohibits trafficking in persons and alien smuggling, which is defined as promoting, executing, or assisting in the illegal entry or exit of persons from the country. Laws prohibiting kidnaping, sexual abuse of minors, and illegal employment are enforced and could also be used to sanction traffickers in persons. There are no programs to educate vulnerable groups about the dangers of trafficking or to assist victims.

There were two reports during the year that persons were trafficked from the country. Early in the year, three women in their twenties were forced into prostitution in Korea after they were ostensibly hired as domestic workers. In May a Peruvian intermediary contracted three men to work as mechanics in Abu Dhabi. The men alleged that once they arrived in Abu Dhabi, their employer took away their passports and never paid them for work performed over several months. With assistance from a foreign consulate in Abu Dhabi and an NGO, the men were repatriated in October.